

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

WILLIAM FILLYAW, )  
                        )  
Plaintiff,           )      Case No.: 08 C 3862  
                        )  
v.                     )      Judge Kocoras  
                        )  
Officer Micah Cress and )  
Officer Kevin Crown,   )  
                        )  
Defendants.           )

**PLAINTIFF'S FIRST AMENDED COMPLAINT**

Plaintiff William Fillyaw, represented by Joseph V. Vito, submits the following as his First Amended Complaint:

**JURISDICTION**

1. The jurisdiction of this Court is invoked pursuant to the Civil Rights Act, 42 U.S.C. § 1983; the Judicial Code, 28 U.S.C. §1331 and §1343(a); and the Constitution of the United States.

**VENUE**

2. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this matter as the case stems from an incident occurring in Wadsworth, Lake County, Illinois which is part of the Federal Judicial District for the Eastern Division of the Northern District of Illinois.

**PARTIES**

3. Plaintiff is a resident of the State of Illinois and of the United States.

4. Defendants, Officers Cress and Crown, are members of the North Chicago Police Department and were also involved in the Lake County Major Crime Task Force's operation that gives rise to this Complaint as detailed further below. Both Defendants are being sued in their individual capacities.

## **COUNT I - EXCESSIVE FORCE**

5. This action is brought pursuant to the Laws of the United States Constitution, 42 U.S.C. § 1983, and the Laws of the State of Illinois to redress deprivations of the Plaintiff's civil rights.

6. On July 3, 2007 Defendants, Officers Cress and Crown, while acting pursuant to their roles as members of the North Chicago Police Department and the Lake County Major Crimes Task Force, and under color of law, unreasonably seized Plaintiff William Fillyaw. This conduct violated the Plaintiff's rights under the Fourth Amendment of the United States Constitution.

7. As part of an operation conducted by the Lake County Major Crimes Task Force, Defendants used a large unmarked sports utility vehicle to ram Plaintiff William Fillyaw's vehicle with excessive force in an effort to stop his vehicle.

8. Plaintiff was never notified that he was under arrest prior to the ramming of his vehicle.

9. After the Plaintiff's vehicle was rammed, the Defendants, in civilian clothes, exited the sports utility vehicle and used deadly force by firing several gun shots at the Plaintiff. One of the bullets fired penetrated the driver's side door of the Plaintiff's vehicle and struck Plaintiff in the hip causing serious injury that required surgery.

10. Throughout this incident, Plaintiff William Fillyaw never obstructed justice, resisted arrest, assaulted or battered any law enforcement officials including the Defendants, nor has he been criminally charged with such conduct against any officer.

11. Defendants use of excessive and deadly force constituted an unreasonable seizure of the Plaintiff under the Fourth Amendment of the Constitution.

12. As a direct and proximate result of the Defendants' conduct, Plaintiff's constitutional rights were violated and he also suffered severe personal injury and emotional distress.

WHEREFORE, Plaintiff seeks judgment in his favor and against each Defendant. Plaintiff seeks an award in excess of \$50,000 against both Defendants individually in addition to court costs and attorney's fees pursuant 42 U.S.C. § 1988.

Respectfully submitted,

By: s/Joseph V. Vito  
Joseph V. Vito

Joseph V. Vito, Esq. (ARDC #6284193)  
Segal McCambridge Singer & Mahoney, Ltd.  
Sears Tower, Suite 5500  
233 S. Wacker Dr.  
Chicago, IL 60606  
312-645-7800